**HON'BLE SHRI G.S. SINGHVI, THE CHIEF JUSTICE**

**WRIT PETITION No.29508 OF 1995**

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**Between:**

Smt. R. Sugunamma

**……Petitioner**

**And**

Union of India, reptd. by its Secretary,
Ministry of Home Affairs, Gruha Mantralaya,
New Delhi and another

**……Respondents**

**:: ORDER ::**

Counsel for the Petitioner : Sri K. Srinivasa Rao representing Sri M. Vishnu Vardhan Reddy

Counsel for Respondent No.1 : Sri A. Rajasekhar Reddy, Assistant Solicitor General

Counsel for Respondent No.2 : Government Pleader for Revenue

**Dated: 26-07-2006**

More than 30 years ago, the Government of Andhra Pradesh vide Memo No.535/FF-76-1 dated 5.6.1976 forwarded to the Government of India, the application made by the petitioner's husband Sri Ramasahayam Narsimha Reddy for grant of pension under the Freedom Fighters Pension Scheme, 1972 (for short 'the 1972 Scheme').

Sri Ramasahayam Narasimha Reddy did not survive to know the fate of his application for grant of pension but left his wife Smt Sugunamma, who, I hope is still alive to seek the intervention of the Court. Unfortunately for her, the writ petition filed for issue of a direction to the respondents to decide her claim for grant of pension under the 1972 Scheme has remained pending for eleven years and seven months.

This Court has already expressed dismay and anguish for the enormous delay in the disposal of the cases involving claims of freedom fighters. There can be no quarrel with the proposition that the entire legal system owes a duty to the freedom fighters and their families that the claims made by them are adjudicated expeditiously. It would not be unreasonable on my part to take judicial notice of the fact that large number of cases filed by the haves and economically effluent class of the society are taken up and disposed of by different courts with great urgency. Some of the litigants who can afford to engage eminent advocates by paying hefty fee are able to persuade the Court to devote considerable time for adjudicating the disputes relating to their fiscal claims. However, those who belong to the class of have nots or who cannot afford to engage senior lawyers by paying large amount of fee, perhaps do not have anyone to hear their cry. The freedom fighters and their dependants like the petitioner also fall in that category. She is still waiting for the adjudication of the writ petition

filed in December, 1995. During this interregnum many thousands of cases must have been decided by this Court.

The injustice done to the petitioner has been compounded by the fact that neither of the respondents has bothered to file counter-affidavit making it difficult for the Court to adjudicate her claim on merits. This is also the fate of majority of other petitions of freedom fighters which had been listed for hearing. The counsel for the petitioners who have appeared before the Court on the previous Wednesday and today also find themselves in a very awkward position. Majority of them are not those who had drafted the writ petitions. At the time of admission hearing, the Bench may have entertained the petition without insisting on filing of sufficient material which could sustain the claim of the freedom fighters or their dependants, but at the time of hearing I am faced with the dilemma of deciding the claim of persons like the petitioner on merits in the absence of relevant documents and materials. Today in the morning, Sri S.V. Prasad, Revenue Secretary of the Government of Andhra Pradesh appeared in one of the petitions filed by a freedom fighter and assured the Court that counter affidavits will be filed in all the cases of freedom fighters at the earliest, but so far as the Government of India is concerned, the response has been extremely disheartening. Case after the case reveal that counter affidavits have not been filed on behalf of the Union of India resulting in forced adjournments of the cases or disposal thereof by an innocuous order or direction for consideration of the claim of the petitioner. One does not know whether the petitioners falling in the category of freedom fighters and their dependants would survive to reap the fruit of adjudication made by the Court.

In the present case also, the counter has not been filed despite

the fact that the petition has remained pending for eleven years and seven months. This leaves me with no choice but to decide the writ petition on the basis of averments contained in the writ petition and documents filed by the petitioner. However, after going through the scanty pleadings and wholly insufficient evidence produced before the Court, I find it virtually impossible to adjudicate on merits the entitlement of the petitioner to receive pension under the 1972 Scheme. Therefore, I deem it proper to adopt the safer course and direct the respondents to deal with and decide the petitioner's claim within a specified time frame.

Hence, the writ petition is disposed of with the following directions:

1) Within two weeks from the date of receipt of copy of this order, Secretary to the Government of Andhra Pradesh, Revenue Department shall resubmit the pension papers of the petitioner to the concerned authority of the Government of India in the Ministry of Home Affairs.

2) Within four weeks from the date of receipt of the papers sent by the Revenue Secretary, the concerned officer of the Government of India shall scrutinize the petitioner's claim and pass appropriate order, which shall be necessarily communicated to her at the end of four weeks period. A copy of the order to be passed by the competent authority of the Government of India shall also be sent to Secretary to Revenue Department, Government of Andhra Pradesh who shall, in turn, send the same to the District Collector, Khammam. The latter shall ensure that the copy is served on the petitioner.

3) If the petitioner is found eligible and entitled to receive pension under the 1972 Scheme or any other scheme framed by the Government of India, then the amount payable to her shall be released within two months from the date of passing of order by the competent authority of the Government of India.

Lest the respondents may not comply with the Court's order and the petitioner may not even know the fate of her claim, I deem it proper to direct that the matter be listed before the Court on October 16, 2006 on which date counsel representing the Government of India and the Government of Andhra Pradesh should jointly make a statement on the issue of compliance of the direction contained in this order.

**G.S. SINGHVI, CJ**

**26-07-2006**

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